

**Spring
& Meeting
Board Election**

EDA
CONSORTIUM

Government Changes Impacting EDA & IP

Sponsor

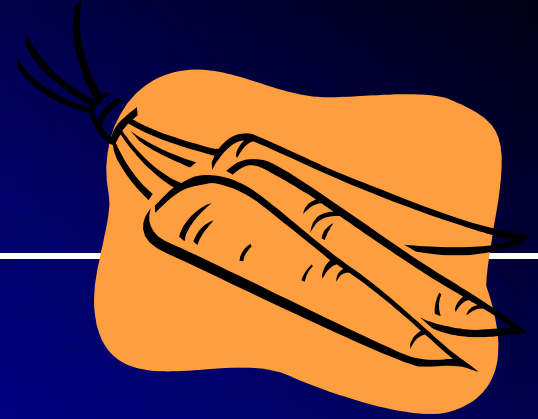
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Export Compliance

What's in this for you...



- **The Carrot:**
 - **An established export compliance process is a marketable asset!**
 - In an M&A, the successor assumes the liabilities of the acquired company
 - **Liabilities include past mistakes**
 - **Export Compliance is an area of due-diligence exercised by larger companies when contemplating an M&A**

Export Compliance

What's in this for you...



- **The Stick:**

- **Ignorance of the regulations is not a defense**

- Export Enforcement is a Homeland Security program
 - “Sanctions” implemented by export controls
 - Personal liabilities as well as corporate liability
 - Fines are increasing
 - Press release standard with case settlements

- **Ignorance = means unnecessary burden**

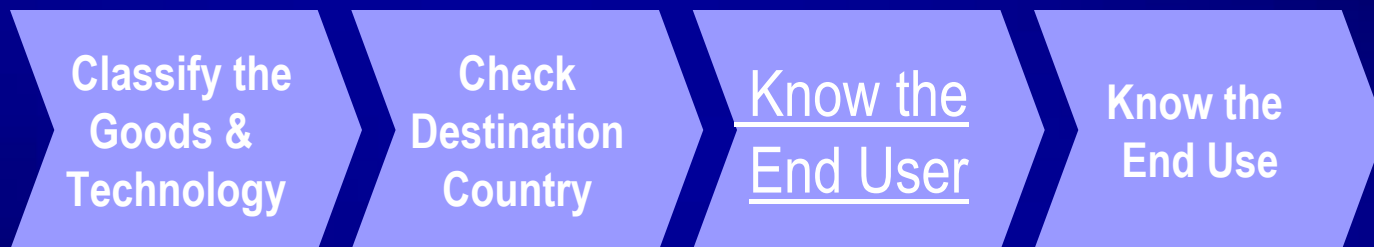
- Paralysis
 - Too-restrictive interpretations

What is an Export?

- The release of goods, services or technology to a Non-US Person
 - Regardless of location or non-US country of citizenship
 - Regardless of the method of transmission
 - WAN – EMAIL – Physical Shipment – FTP download
 - “Exporting in the Hallway”

Export Process Steps

- It is your responsibility to comply with export regulations

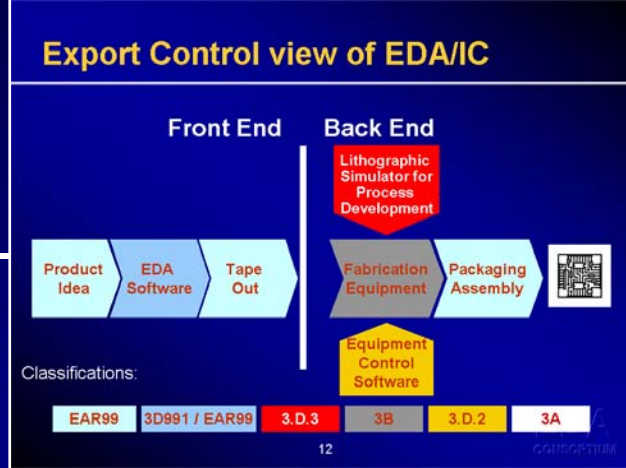


- **DOCUMENT – DOCUMENT - DOCUMENT**
- **BIS (US Department of Commerce, Bureau of Industry and Security) strongly recommends that exporters create and maintain an Export Management System**

www.bis.doc.gov

Common EDA ECCNs

- EAR99 / 3D991 – (“Decontrolled” or U.S. specific anti-terrorism category)
 - Model-based EDA software
 - Including OPC, RET, Spice
 - **Standard design IP**
- 3.D.3 (US 3D003) – “Restricted”
 - Software for physics based lithographic simulation
 - May cover certain physics based TCAD tools
- 5D992 – “Decontrolled after registration” (US specific low-level encryption)
 - EDA software containing encryption for protection of IP designs
- ITAR – anything “specially designed” for military applications



Emerging Issues for 2006

- Deemed Exports
- New “Country of Concern”
- China
 - *Military Catch-All* legislation
- Export Administration Act re-write
- DFARS amendment

Deemed Exports

- Enforcement: “low hanging fruit”
- Do you have non-U.S. Persons working in the US
 - Citizens of Cuba, Iran, *Iraq, Libya*, North Korea, Syria, Sudan
 - *Venezuela?*
- Do you have non-US Persons in your customer support environment?
 - Does the customer know their data could be exported?
 - Are there export restrictions on your customer’s data?
 - Who has virtual access to your customer’s data?
- On site support
 - Can your support engineer enter your customer’s environment?

Don’t unintentionally export data!

Military “Catch-All”

- Proposed regulations due this summer:
 - Denial of exports that will *materially enhance* the military capability of countries subject to regional sanctions
 - Broad-base restrictions applied to exports to all subject (approx. 20) countries *except* China
 - Narrower restrictions on exports to China
 - **Know your customer**
 - **Know the end-use**

Military “Catch-All”

- What you will need to know:
 - Is your Chinese customer directly supplying a military program?
 - Is your Chinese customer directly developing materials found on the USML?
- Customer Assurances
 - Passive – customer acknowledges export restrictions
 - Active – customer affirms the use and market for the products created by the technology you are supplying

HR4572

- 2-year extension of the existing EAA
- Increases penalties for civil violations from \$11,000 to \$500,000.
 - Denials from 5 to 10 year minimums
 - Special “enforcement fund” of \$1m gathered from company fines to bolster investigation activities
 - Increases authority for undercover work, wiretaps and overseas investigations

DFARS legislation – Proposed Rule

- **DFARS = Defense Federal Acquisition Regulation Supplement**
 - Amend DFARS to require DoD contractors to implement and maintain effective export compliance programs
 - Register with DDTC
 - Maintain compliance program ensuring controls over physical, visual & electronic access
 - Physical access control plan – unique badging/segregation for non-US persons
 - Conduct training & periodic audits/assessments

Export resources

- www.edac.org
 - CCATS sharing – EDA specific presentations
- www.bis.doc.gov – BIS website
 - www.export.gov – US Export website
- **BIS Exporter Counseling**
 - Washington DC
 - 111 N. Market St, San Jose
- <http://www.paei.org/>

Professional Association of Exporters and Importers

 - San Jose-based organization
 - Low-cost membership fee
 - Partners with BIS to bring seminars & training to the valley
 - **Sept 28-29, Santa Clara**